

DATED: <Insert Date here>

TERMS AND CONDITIONS

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THIS AGREEMENT is made on <Insert Date>

BETWEEN:

- (1) <INSERT NAME> a company registered in England and Wales under number <Insert Company Number> having its registered office at <Insert Registered Office address> ("the Company"), and
- (2) **QUALCO UK LIMITED** a company registered in England and Wales under number 8098859 having its registered office at 15 Westferry Circus, Canary Wharf, London, E14 4HD ("the Servicer").

WHEREAS:

- (A) The Company has certain consumer debts arising from accounts that have fallen into arrears. The Company wishes these debts to be placed with certain debt collection agents and wishes to appoint the Servicer to provide a solution to manage such agents, advise on the allocation of debts to agents, provide analytical information and carry out such related Services as set out in this Agreement in accordance with the terms herein.
- (B) The Servicer wishes to provide such a solution to the Company in return for an agreed pricing structure.

IT IS AGREED:

1. DEFINITIONS

- 1.1 The following words and phrases, unless the context otherwise requires, shall have the following meanings:

Accounts:	an account in arrears relating to a Customer of the Company that is referred to the Servicer to manage by the Servicer in accordance with this Agreement.
Affiliate:	any Person that, directly or indirectly, Controls or is Controlled by or is under common Control with such Person.
Agreement:	this servicing agreement and other amendments, modification, extensions hereof and supplements hereto agreed in writing by the parties from time to time.
Anti-Bribery Laws:	all Applicable Laws that prohibit the bribery of, or the providing of unlawful gratuities, facilitation payments,

or other benefits to, any government official or any other Person, including: (a) the United States Foreign Corrupt Practices Act of 1977; and (b) the United Kingdom Bribery Act 2010.

Applicable Law:

any statute, statutory provision, statutory instrument, law, regulatory direction or notice, any code of practice or conduct, any rule or guidance or High Level Standards given by any regulator (including the FCA) or the Financial Ombudsman Service which relates to the Accounts, this Agreement or any of the activities to be undertaken by either party in connection with this Agreement and any third party prescribed voluntary code of practice or conduct (including the Credit Services Association) which the Company, the Servicer or its Agents has elected to comply with in respect of its business generally or that part of its business that relates to Accounts or similar products (in each case to the extent applicable).

Associate:

any officer, director, shareholder, beneficial owner, partner, Affiliate, Associated Company, subsidiary, advisor, agent or employee of the relevant party.

Associated Company:

any company which is, in relation to another company, its holding company or its subsidiary or a subsidiary of its holding company. "Holding company" and "subsidiary" will have the meanings attributed to them in section 1159 of the Companies Act 2006.

Best Endeavours:

in accordance with the principles of good management to be expected from, and with the same degree of skill and care with which, a professional and prudent provider of Services similar to those provided herein should provide such Services.

Business Day:

any day other than a Saturday or Sunday on which banks are open for business in London.

Collections:

all monies collected (gross and including any interest and fees) in respect of the Accounts by either Servicer

or an Agent or, as the case may be, on behalf of the Company without deduction or setoff.

Commencement Date: means the date of this Agreement and for the avoidance of doubt all the provisions of this Agreement shall be deemed to become effective on this date.

Company Shall be the Buyer using the Service provided by the Servicer

Complaint: any expression of dissatisfaction by a Customer or third party in connection with the Services or in relation to an Agent or Servicer or the Company.

Confidential Information: all information not publicly known directly relating to a party's business, clients, customers, financial or other affairs obtained or received as a result of the negotiation to enter into, the entering into or the performance of this Agreement including, without limitation, information relating to:

- (a). future projects, business development or planning, commercial relationships and negotiations;
- (b). the marketing of services including without limitation, client or Customer names and lists, financial statistics, market share statistics, fees, market research reports and surveys; and
- (c). any information obtained during an examination undertaken pursuant to clause 7.2 or in performing any obligations thereunder.

Control: means possession, directly or indirectly, through one or more intermediaries, of the power to direct or cause the direction of the management and policies of a Person.

Customers: the obligors or Customers in arrears under the relevant Accounts.

Data Protection Legislation:	means any laws and regulations relating to privacy or the use or processing of data relating to natural Persons applicable to the provision of the Services, including: (a) EU Directive 2002/58/EC (as amended by 2009/139/EC) and any legislation implementing or made pursuant to such directive, including (in the UK) the Privacy and Electronic Communications (EC Directive) Regulations 2003; and (b) EU Regulation 2016/679 ("GDPR"); and (c) any laws or regulations ratifying, implementing, adopting, supplementing or replacing GDPR (including the Data Protection Act 2018); in each case, to the extent in force, and as such are updated, amended or replaced from time to time.
DP Regulator:	means any governmental or regulatory body or authority with responsibility for monitoring or enforcing compliance with the Data Protection Legislation.
Event of Default:	as defined in clause 14.2
ExtraCollect:	the platform and system of record provided by the Servicer for the servicing of Accounts in order that it may deliver the Services to the Company in accordance with clause 3.
FCA:	Financial Conduct Authority
Insolvent:	a party is insolvent if: (a). it is unable to pay its debts as they fall due or proposes or makes general assignment or arrangement or composition with or for the benefit of its creditors or a moratorium is agreed or declared in respect of or affecting all or a material part of its indebtedness; (b). an order is made or an effective resolution is passed for winding up of the party except for the purposes of and followed by a bona fide solvent commercial reorganisation, amalgamation or reconstruction; or a meeting is summoned to pass any such resolution or a bona fide petition for a winding up order is presented against it

which is not discharged within a reasonable time;

- (c). the party is (or could be deemed by law or a court to be) insolvent (as defined under English Law insolvency provisions);
- (d). a receiver or an administrative receiver is appointed in respect of all or any of the Accounts or undertaking of the party;
- (e). an administration order is made in respect of the party or a bona fide petition for an administration order is presented to it which is not discharged within a reasonable time; or
- (f). the equivalent of any of the above occurs to the party under the jurisdiction to which that party is subject.

Intellectual Property Rights:

means patents, utility models, rights to inventions, copyright and neighbouring and related rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, Confidential Information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Losses:

means all losses, claims, damages, liabilities, fines, interest, penalties, costs, charges, expenses, ex gratia compensation payments, demands and legal and other professional costs (calculated on a full indemnity basis).

Management Report:	the reporting provided by the Servicer through the online portal for the benefit of the Company
Person:	any individual, corporation, partnership, joint venture, association, joint stock company, trust, entity, unincorporated organisation or government or any agency or political subdivision thereof.
Portfolio:	shall mean each tranche of Accounts placed with the Servicer from time to time by the Company, together with any further accounts which the Company notifies Servicer applies or relates to an existing Portfolio.
Records:	all files, books, papers, accounts, computer files, disks, legal documents and any other documents relating to the Accounts, or the business activities and operations conducted by the Servicer and the Agents which have been prepared by the Servicer and/or the Agents and/or which are or should be in the Servicer's or the Agents' possession or under the Servicer's or the Agents' control.
Services:	the services to be provided and obligations to be fulfilled by Servicer and/or Agents (as applicable) under the terms of this Agreement
Servicer	Shall be Qualco (UK) Limited, providing the service to the Company

1.2 Clause headings are for ease of reference only.

1.3 References to a statute or statutory provision include, unless the context otherwise requires, a reference to that statute or statutory provision as from time to time amended, modified, extended, re-enacted, consolidated and all statutory instruments, orders, by-laws, directions and notices made pursuant to it whether made before or after the date of this Agreement.

2. **TERM OF AGREEMENT**

2.1 This Agreement shall commence on the Commencement Date and will continue for a period of 36 months and thereafter unless and until it is terminated:

- 2.1.1 by either party giving to the other party not less than 90 days' prior written notice (such notice to expire on or after the Initial 36 month period), or earlier in accordance with the provisions of clauses 14 or 23.

3. **APPOINTMENT OF SERVICER**

- 3.1 The Servicer is hereby appointed by the Company to provide software enabling the Company to manage the placement, recall and re-placement of the Accounts with any debt collection agencies in accordance with these Terms and Conditions.
- 3.2 The Servicer undertakes to the Company that it will use its Best Endeavours to provide the following Services to the Company:
 - 3.2.1 using all proper professional skill and care to provide the Services in an efficient, accurate and competent manner and carry out its duties in relation to the provision of the ExtraCollect software in a manner which is in accordance with the accepted level of industry practice and which will not compromise the reputation of the Company;
 - 3.2.2 acting in good faith in the best interests of the Company and consulting with the Company on all matters materially affecting the ExtraCollect software;
 - 3.2.3 using its Best Endeavours to ensure the Agents comply with the service level agreements that have been agreed between the Servicer and the Company and deliver the relevant Services in a manner that does not cause the Servicer to be in breach of its obligations under this Agreement; and
 - 3.2.4 doing all other things necessary to provide the Services, including (but not limited to) providing all equipment, people, processes, premises and materials necessary for the provision of the Services.
- 3.3 Not used
- 3.4 Without limitation on the duties and obligations on the Servicer, the Servicer shall use its Best Endeavours to:
 - 3.4.1 ensure Accounts are placed with Agents approved by the Company in a timely manner and in any event within 3 Business Days of receipt, unless otherwise agreed with the Company;
 - 3.4.2 Not used
 - 3.4.3 maintain details of Customer balances for each Portfolio and/or Account and provide a written copy of the same to the Company upon request (in a format that is acceptable to the Company);

- 3.4.4 perform a filtering or scoring process to segment the Accounts and shall determine the best way to manage the Accounts prior to placing the Accounts with Agents;
- 3.4.5 Not used
- 3.4.6 Not used
- 3.4.7 provide and maintain written Management Reports to the Company via an online portal;
- 3.4.8 maintain appropriate IT capability to perform the Services.
- 3.5 In addition to the carrying out of the obligations set out above in clause 3.4, the Servicer shall undertake or procure the undertaking of the following obligations:
 - 3.5.1 the posting and monitoring of all payments received by Agents from Customers relating to the Accounts, including the provision of secure processing of cash received and administration thereof;
 - 3.5.2 Not used
 - 3.5.3 the timely processing of direct payments and ensuring the Agents instruct Customers to make payments directly to the Agents' Collections Account.
- 3.6 Not used
- 3.7 The Servicer undertakes and agrees with the Company at all times during the term of this Agreement to:
 - 3.7.1 act towards the Company conscientiously and in good faith and not to allow its interests to conflict with the duties that it owes to the Company under this Agreement and/or any Applicable Law;
 - 3.7.2 not to act in a way which will incur any liabilities by or on behalf of the Company;
 - 3.7.3 comply with all reasonable and lawful instructions of the Company and to carry out its obligations under this Agreement in a manner which shall promote the best interests of the Company at all times;
 - 3.7.4 act in accordance with sound commercial principles in its relations with Customers and to do nothing which may be prejudicial to the goodwill, reputation or commercial interests of the Company; and
 - 3.7.5 inform the Company promptly of any Complaint or enquiry received by the Servicer as soon as is reasonably practical and in any event within one Business Day of receipt.

4. **MANAGEMENT REPORT**

- 4.1 Will be delivered through the online Client portal.

5. **OPERATIONS**

- 5.1 The Servicer shall deliver to the Company management information as shall be reasonably agreed between the parties from time to time.
- 5.2 In carrying out any of its obligations set out herein, the Servicer shall act in an ethical way and in compliance with all Applicable Laws and regulations including the Consumer Credit Sourcebook (CONC) issued by the FCA.
- 5.3 The Servicer shall have appropriate disaster recovery arrangements in place to ensure the Services can be resumed without material interruption as soon as possible, but in any event no later than sixty hours after the contingency event. Details of the Servicer's disaster recovery plan shall be provided to the Company upon request.
- 5.4 In the event of an incident affecting the Servicer's operational capability the Servicer shall notify the Company as soon as is practically possible. Should the Servicer be delayed in performing any part of the Services it will be discussed by the Servicer and the Company and if appropriate the recovery plan will be invoked by the Servicer.
- 5.5 Not used
- 5.6 The Servicer shall pay all costs incurred by it in complying with its obligations under this Agreement.

6. **BANK ACCOUNTS**

- 6.1 The Servicer shall maintain a Collection Account. The Collection Account shall be a client account in which monies collected by the Agents on behalf of the Company shall be held prior to reconciliation and transfer across to the Company.

7. **RECORDS**

- 7.1 The Servicer will be responsible for maintaining and keeping all Records in relation to the Accounts as are required by Applicable Law, or this Agreement, in a complete, accurate and up to date state.
- 7.2 The Servicer shall permit the Company and its auditors (the "Auditors") to carry out audits of the Servicer's performance of its obligations under this Agreement and shall otherwise provide the Company and its advisers including the Auditors with all reasonable assistance and access to, and copies of, such Records.

- 7.3 If, by agreement with the Company, Records are not sent or returned to the Company upon termination of this Agreement in accordance with clause 15.7, the Servicer shall maintain a complete and accurate set of Records at an address to be specified to the Company for the duration of this Agreement and for six years thereafter (subject to compliance with the Data Protection Legislation). The Servicer shall at all times ensure the safe custody and confidentiality of all Records according to prudent commercial practice and hold them to the order of the Company.

8. INSURANCE

- 8.1 The Servicer shall, by such means as may be appropriate, at all times maintain adequate insurance, with an insurance company or underwriter against all risks and against all liabilities and in such amount and scope as, in each case, is prudent or normal for a Person carrying on a similar business to that of the Servicer to insure against, including without limitation the insurances referred to in clause 9.2.
- 8.2 The Servicer shall maintain at its own expense professional indemnity insurance to a maximum of £5,000,000 as an aggregate over each year in relation to its liabilities and obligations under this Agreement. Such insurance shall be maintained throughout the duration of this Agreement and thereafter the Servicer shall use its reasonable endeavours to maintain or procure the maintenance of professional indemnity insurance in those sums for a period of six years following termination of this Agreement to cover its liabilities and obligations which may accrue in connection with this Agreement.
- 8.3 On request, the Servicer shall produce to the Company a certificate of insurance or other proof evidencing its insurance coverage.
- 8.4 Neither party shall be liable to the other party for any indirect or consequential loss or damage (including but not limited to loss of profit, anticipated savings, reputation) arising out of or in connection with this Agreement whether in contract, tort (including negligence) or otherwise.

9. FEES

- 9.1 All Collections received by the Agents in respect of the Accounts shall be transferred from the Agents' Collection Accounts to the Servicer's nominated bank account on a weekly basis (or as otherwise agreed between the parties in writing) for the purpose of reconciliation and consolidation, after which the monies shall be transferred from the Servicer's account to the Company's nominated bank account.
- 10.2 In consideration for and whilst providing the Services under this Agreement, the Servicer shall receive payment as outlined in the separate rate card. The Servicer shall invoice the Company monthly in arrears for the fees plus VAT (if applicable, at the then prevailing rate) and the invoice shall quote the relevant purchase order as provided by the Company from time to time.

The Company will pay the Servicer's invoice within 30 days of receipt from the Servicer. The Servicer will provide the Company with the Management Report weekly (or as otherwise agreed in writing) which will include, inter alia, details of the Collections and the Servicing Fees for that month.

- 9.3 If the fees payable by the Company to the Servicer are not paid when due then without prejudice to the Servicer's other rights under this Agreement that sum will bear interest from the due date until payment is made in full both before and after any judgment at two per cent per annum over Barclays Bank Plc base rate from time to time. The parties agree that this clause 10.3 is a substantial remedy for late payment of any sum payable under this clause 10 in accordance with section 8(2) Late Payment of Commercial Debts (Interest) Act 1998.

10. **REGULATORY REQUIREMENTS**

- 10.1 The Servicer shall ensure that it has and maintains throughout the term of this Agreement all consents, licences or authorisations to perform its obligations, and to carry out any activity under or incidental to the performance of its obligations and the ability and capacity, under this Agreement.
- 10.2 The Servicer shall advise the Company as soon as is reasonably practical any legal or regulatory issues within the Servicer's business which may materially and adversely impact upon the Servicer's ability to perform its obligations under this Agreement in compliance with Applicable Law.
- 10.3 If the Company is the subject of an investigation or audit by any regulatory, governmental or statutory body then, to the extent that such investigation or audit relates to the subject matter of this Agreement, the Servicer will as a matter of urgency provide such assistance and information as is reasonably required by the Company including provision of access, for the Company and its representatives and auditors and the relevant regulator, to (insofar as they relate to the subject matter of this Agreement) the books, accounts, vouchers, tapes, computer systems, and Records, maintained or controlled by the Servicer and the directors, officers and employees and premises of the Servicer or its Agents or sub-contractors, for the term of this Agreement and for a period of up to 6 years after the Agreement ends.

11. **DATA PROTECTION**

- 11.1 In this Agreement the terms "Personal Data", "Data Processor" and "Data Controller" are as defined in the Data Protection Legislation. The parties acknowledge that all the Personal Data is the property of the Company. The Servicer acknowledges that under the terms of this Agreement:
- 11.1.1 it will act as a Data Processor appointed by the Company who is a Data Controller or authorised as a Data Processor on behalf of the Data Controller; and

11.1.2 data in relation to the Company's Customers, or other individuals in connection with the Accounts, to which it has access is Personal Data.

11.2 The Servicer warrants and undertakes that:

11.2.1 it will only process the Personal Data for the purposes set out in this Agreement and on instruction from the Company, and in particular will:

- (a) not pass the Personal Data to any third party other than in accordance with clause 12.2.6;
- (b) not delete, modify or amend the Personal Data unless requested to do so in writing by the Company;
- (c) keep the Personal Data confidential;
- (d) perform its obligations in accordance with the Data Protection Legislation;
- (e) provide the Company and any DP Regulator with full co-operation and assistance in relation to any complaint or request made in respect of any Personal Data;
- (f) comply with any systems or procedures which the Company may introduce from time to time in respect of the processing of the Personal Data; and
- (g) take reasonable steps to ensure the reliability of any Person who has access to Personal Data.

11.2.2 it will immediately notify the Company in the event that it becomes aware of any breach of the Data Protection Legislation by the Servicer or any Agent or sub-contractors in connection with this Agreement;

11.2.3 it will take such security measures as required to enable it to process the Personal Data in compliance with obligations equivalent to those imposed on the Company by the Seventh Principle of the Data Protection Legislation and, in so doing, if requested provide a written description of the technical and organisational methods employed by the Servicer for processing Personal Data (within the timescales required by the Company) and implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure;

11.2.4 it will provide such information as is reasonably necessary to enable the Company to satisfy itself of the Servicer's compliance with this clause 12.2;

- 11.2.5 it will allow the Company, its employees or authorised agents or advisers upon reasonable prior written notice to the Servicer, reasonable access to any relevant premises, during normal business hours, to inspect the procedures and measures required under this clause 12.2 provided that the Company agrees to carry out such inspection with minimum disruption to the Servicer's day to day business;
 - 11.2.6 if it is permitted or instructed by the Company to appoint any third party, such as an agent, contractor or professional adviser to which Personal Data will be disclosed to enable the third party to perform its appointment, the third party will be required by the Servicer to enter into a written contract containing equivalent terms to those set out in this clause 12;
 - 11.2.7 it will not process Personal Data outside of the European Economic Area without the prior written consent of the Company; and
 - 11.2.8 it will co-operate so far as is reasonable with the Company in complying with any subject access request and/or responding to any enquiry made, or investigation or assessment of processing initiated by the DP Regulator in respect of the Personal Data.
- 11.3 Following termination of this Agreement, howsoever arising, the Servicer may process the Personal Data only for so long as is required or as may be necessary for the purpose of defending any legal proceedings that may be brought against the Servicer by any Person or body in relation to this Agreement or as is required by law or any regulatory body or recommended by any relevant code of practice. Subject to the expiry of any relevant limitation period, any period required by law or a regulatory body or recommended by any relevant code of practice, the Servicer will not retain any copy, abstract, précis or summary of any Personal Data and subject to clauses 8.3 and 15.7 will destroy its records and documentation accordingly on the expiry of such period.

12. REPRESENTATIONS AND WARRANTIES AND INDEMNITY

- 12.1 The Servicer represents and warrants to the Company that as of the date of this Agreement:
- 12.1.1 it is a company duly incorporated and validly existing under the laws of England;
 - 12.1.2 it has the full power and authority to execute, deliver and perform this Agreement and all transactions contemplated by it;
 - 12.1.3 when executed this Agreement shall constitute legal, valid and binding obligations upon it; and
 - 12.1.4 there is no litigation pending against it, or, to its knowledge, threatened, which, if determined would adversely affect its ability to carry out its obligations under this Agreement or which would have a material effect on its financial condition.

- 12.2 The Servicer will indemnify and keep indemnified subject to the limits included in clause 9.2 and defend at its own expense the Company against all Losses incurred by the Company, or as a result of or in connection with any claim made against the Company for actual or alleged infringement of a third party's Intellectual Property Rights, or for which the Company may become liable due to any failure by the Servicer (or its employees or Agents) to comply with any of its obligations under this Agreement.

13. **CURRENCY**

- 13.1 All payments under this Agreement shall be made in pounds sterling.

14. **TERMINATION**

- 14.1 Subject to clause 15.2, this Agreement will terminate in accordance with clause 2 or clause 15.5 of this Agreement, whichever is the earlier.

- 14.2 "Event of Default" shall mean the occurrence of one or more of the following:

14.2.1 a party committing a breach of any of the terms and conditions of this Agreement and (if the breach is capable of remedy) failing to remedy that breach by the tenth Business Day after receipt of a notice requesting it to do so (unless the breach relates to the failure by the party to pay or transfer monies as required under this Agreement, when the breach must be remedied within five Business Days of receipt of notice requesting it so to do);

14.2.2 any representation or warranty made by a party not being complied with or being proved to have been incorrect or misleading when made, to any material extent; or

14.2.3 the following events shall be Events of Default by the Servicer:

(a) it is or will become unlawful for the Servicer to perform or comply with any of its obligations under this Agreement; or

(b) any consent, licence or authorisation required by the Servicer to carry out the Services is, revoked, or not renewed, or subject to conditions that materially affect its ability to comply with its obligations under this Agreement.

- 14.3 The party that commits or is subject to an Event of Default (the "Defaulting Party") shall promptly inform the non-defaulting party (the "Non Defaulting Party") in writing of the occurrence of an Event of Default. Such notice shall set out the nature of the Event of Default in question.

- 14.4 Any remedy period shall begin to run from the earlier of (i) the date of the notice sent pursuant to clause 15.3 and (ii) the date upon which the Non Defaulting Party notifies the Defaulting Party in writing that it has become aware of the occurrence of an Event of Default.
- 14.5 If an Event of Default is not capable of remedy, or the Defaulting Party fails to remedy an Event of Default which is capable of remedy within the applicable remedy period, the Non Defaulting Party may terminate this Agreement by written notice, and termination shall be effective upon such written notice being served on the Defaulting Party in accordance with clause 17.3 or upon the date specified in the notice, if later. A party may terminate this Agreement with immediate effect if the other party becomes, or threatens to become, Insolvent.
- 14.6 Termination shall not affect a party's accrued rights and obligations at the date of termination. If termination arises as a result of any act or omission resulting from gross negligence, fraud or wilful misconduct of the Servicer, then no Servicing Fee shall be payable (even if it is owing and unpaid).
- 14.7 Upon the termination of this Agreement for whatever reason:
- 14.7.1 the Servicer and its Agents shall cease to provide the Services.
- 14.7.2 all provisions in this Agreement whose effect is intended to survive termination and any rights of action vested in either Party hereto at the date of termination shall survive termination; and
- 14.7.3 the Servicer will deliver and procure that the Agents deliver (or, if the Company so requests by notice in writing, destroy) all Records and any Confidential Information of the Company (together with all copies) to the Company upon request and shall make no further use of such Records. The parties will co-operate with each other to effect an efficient and smooth transition of responsibility with respect to the Accounts.
- 14.8 The right of either party to terminate this Agreement pursuant to this clause 15 and/or any other provision of this Agreement is without prejudice to that party's other rights and remedies.

15. **ASSIGNMENT**

- 15.1 This Agreement shall inure to the benefit of and be binding upon the parties and their successors and assignees.
- 15.2 Either party may assign delegate, transfer, charge or otherwise dispose of all or any of the benefit and/or its obligations under this Agreement to another party but only with the prior written consent of the other party (such agreement not to be unreasonably withheld).

- 15.3 No permitted assignee of the benefit and/or obligations under this Agreement shall have any right to assign such benefit and/or obligations.

16. **MISCELLANEOUS PROVISIONS**

- 16.1 This Agreement constitutes the entire understanding and agreement between the parties and any variation to this Agreement shall be binding as between the parties only if it is in writing signed by or on behalf of the parties, provided always that nothing in this clause shall exclude any party's liability for fraud or wilful misstatement in connection with the negotiation of this Agreement.

- 16.2 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

16.3 **Notices:**

- 16.3.1 Each notice, demand or other communication under this Agreement shall be made in writing and shall be delivered to the relevant party at the address set out below, for the attention of the Person referred to below, or such other Person(s) as may be notified by the relevant party to the other:

(a) If to the Company: <Insert Contact Name and Address and email>

(b) If to the Servicer :
Christian Jacob
Qualco UK Limited
Building One, The Heights
Brooklands
Weybridge
Surrey
KT13 0NY
cjacob@qualco.co.uk

- 16.3.2 Any notice or other communication from a party shall be irrevocable and (subject as follows) shall not be effective until its receipt by the other party. In the absence of evidence of earlier receipt a notice or other communication is deemed to have been delivered:

- (a) in the case of personal delivery, at the time of such delivery;
- (b) if sent by post, two days after posting it; and
- (c) in the case of delivery by email, immediately upon receipt.

16.3.3 All notices, demands or other communications under this Agreement shall be in English.

- 16.4 If any of the provisions of this Agreement are found to be void or unenforceable such provision shall be deemed to be deleted from this Agreement and the remaining provisions of this Agreement shall continue in full force and effect and the parties shall use their reasonable endeavours to procure that any such provision is replaced by a provision which is valid and enforceable and which gives effect to the spirit of this Agreement.
- 16.5 The waiver by either of the parties of any breach of any of the provisions of this Agreement shall not prevent the subsequent enforcement of that provision and shall not be deemed a waiver of any subsequent breach. The rights of either of the parties shall not be prejudiced or restricted by any time, indulgence or forbearance extended to the other of them.
- 16.6 Each party shall bear its own legal costs and disbursements in relation to the preparation, negotiation and exchange of this Agreement.
- 16.7 Covenants, promises and indemnities contained in this Agreement shall be enforceable and survive notwithstanding the termination of this Agreement.
- 16.8 Each of the parties shall do and/or execute all such acts, agreements and documents as may be necessary to give full effect to the provisions of this Agreement.
- 16.9 There shall be no liability under this Agreement of, or recourse under this Agreement to, any Associate of either party to this Agreement, save in respect of an Associate of the Servicer who is a sub-contractor of Servicer under clause **Error! Reference source not found.** or an Associated Company of the Servicer who is an assignee pursuant to clause 16.2, or as otherwise specifically stated in this Agreement.

18 CONFIDENTIALITY

- 18.1 The "Receiving Party" shall: (i) keep Confidential Information of the other which it receives; (ii) not disclose the Confidential Information to any third party other than with the prior written consent of the disclosing party (the "Disclosing Party") and (iii) not use the Confidential Information for any purpose other than the performance of its obligations under this Agreement.
- 18.2 During the term of this Agreement the Receiving Party may disclose the Confidential Information of the Disclosing Party to its employees, advisers and Agents (each a "Recipient") to the extent that it is necessary for the purpose of this Agreement but the Receiving Party must ensure that each Recipient is made aware of and complies with all the Receiving Party's obligations of confidentiality under this Agreement as if the Recipient was a party to this Agreement.

18.3 Subject to the overriding obligations under the Data Protection Legislation (as may be amended from time to time), the above obligations shall not apply to any Confidential Information which:

- (a) is at the date of this Agreement, or at any time after that date, is publicly known other than through breach of this Agreement by the Receiving Party or any Recipient;
- (b) can be shown by the Receiving Party to the reasonable satisfaction of the Disclosing Party to have been known to the Receiving Party prior to it being disclosed by the Disclosing Party to the Receiving Party; or
- (c) subsequently comes lawfully into possession of the Receiving Party from a third party who is not under a confidentiality obligation to the Disclosing Party.

18.4 Subject to the overriding obligations under the Data Protection Legislation (as may be amended from time to time), either party may disclose any Confidential Information of the other:

- (d) for the purpose of any reporting requirements;
- (e) before any competent court for the purposes of pursuing or defending any claim; or
- (f) the disclosure of which is required by law or by any regulatory authority or governmental agency.

19. **ANTI-BRIBERY AND FINANCIAL CRIME**

19.1 The Servicer shall:

19.1.1 comply with the Anti-Bribery Laws;

19.1.2 have and shall maintain in place throughout the term of this Agreement its own policies and procedures to ensure compliance with the Anti-Bribery Laws and will enforce them where appropriate; and

19.1.3 promptly report to the Company any request or demand for any undue financial or other advantage of any kind received by the Servicer or Agents in connection with the performance of this Agreement.

19.2 The Servicer shall ensure that any Person associated with it who is performing Services in connection with this Agreement does so only on the basis of a written contract which imposes on and secures from such Person terms equivalent to those imposed on the

Servicer in this clause 19. The Servicer shall be responsible for the observance by such Persons of the Anti-Bribery Laws.

19.3 For the purpose of this clause 19, the meaning of adequate procedures and whether a Person is associated with another Person shall be determined in accordance with the Bribery Act 2010 (and any guidance issued under section 9 of that Act). For the purpose of this clause 19, a Person associated with the Servicer includes but is not limited to any sub-contractor of or Agent appointed by the Servicer.

19.4 The Servicer (and its Agents) shall maintain adequate systems and its controls to training, monitoring and reporting of suspicious activities as required by but not limited to, The Proceeds of Crime Act 2002, Terrorism Act 2000, Terrorism Act 2006, Money Laundering Regulations 2007 and SYSC 3.2.6 and SYSC 6.1 of the FCA Handbook.

20. **RIGHTS OF THIRD PARTIES**

A Person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this Agreement.

21. **NO PARTNERSHIP OR EMPLOYMENT**

Nothing in this Agreement is intended to or shall operate to create a partnership or joint venture of any kind between the parties or shall be deemed to constitute the relationship of employer and employee between the parties or between either of them and any other Person.

22. **EMPLOYEES**

22.1 The Servicer warrants and represents to the Company that the Servicer or the relevant Agent is, and shall remain throughout the term of this Agreement, the employer of all individuals who may work for the Servicer or Agent (as applicable) in providing the Services, and the Servicer or Agent (as applicable) shall be solely responsible for the remuneration, insurance and other obligations in respect of all these individuals. With effect from the date of any individual's engagement in the provision of the Services, the Servicer or Agent (as applicable) shall be in compliance with all applicable legislation, including any social security rules and regulations. If the Company is deemed liable for any taxes, social security charges or payments for pensions or for any other payments or claims or demands whatsoever relating to individuals working for the Servicer or Agent (as applicable) and providing the Services, the Servicer will fully indemnify and hold the Company harmless (on an after-tax basis) in respect of any and all of these claims and demands.

22.2 It is the parties' intention that neither the commencement nor the termination of any of the Services either in whole or in part will give rise to a relevant transfer under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) ("**TUPE Regulations**").

22.3 If on termination or expiry of this Agreement, or any part thereof, any contract of employment (or collective agreement) with the Servicer or an Agent has the effect as if originally made between the Company or a replacement servicer ("**Replacement Servicer**") and the employee concerned (or a trade union) as a result of the TUPE Regulations then (without affecting any other rights or remedies which the Company may have):

- (a) the Company or Replacement Servicer may, upon becoming aware of any contract (or collective agreement) or the application of the TUPE Regulations, terminate such contract or agreement immediately; and
- (b) the Servicer shall indemnify the Company and any Replacement Servicer:
 - (i) against all liabilities relating to or arising out of such termination and against any sums payable to, or on behalf of, such employee's employment whether in respect of the period before or after the date of termination of this Agreement save those liabilities, costs and expenses which are incurred as a result of the acts or omissions of the Company, any Replacement Servicer, its employees or authorised agents; and
 - (ii) any liabilities incurred to, or in respect of the relevant trade union.

23. **FORCE MAJEURE**

23.1 For the purpose of this clause 23 a "Force Majeure Event" means any circumstance or event not reasonably foreseeable at the Commencement Date and not within the reasonable control of the party in question including, without prejudice to the generality of the foregoing, strikes, lockouts, shortages of labour or raw materials, computer virus, civil commotion, riot, invasion, war, threat of or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural physical disaster.

23.2 If and to the extent that either party is prevented or delayed by a Force Majeure Event from performing any of its obligations under this Agreement and promptly so notifies the other party, specifying the matters constituting the Force Majeure and specifying the period for which it is estimated that the prevention or delay will continue, then the party so affected shall be relieved of liability to the other for failure to perform or for delay in performing such obligations (as the case may be), but shall nevertheless use its Best Endeavours to resume full performance thereof, provided that if the Force Majeure Event continues for a period of one month or more following notification, the party not affected by the Force Majeure Event may terminate this Agreement by giving not less than 30 days prior written notice to the other party, but the notice of termination shall be of no effect if the party affected by the Force Majeure Event resumes full performance of its obligations before the expiry of the notice period.

24. **JURISDICTION**

- 24.1 This Agreement and any dispute which may arise in connection with it shall be governed by English law and the parties hereby submit to the exclusive jurisdiction of the English Courts.

